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Maldjian Law Group LLC
36 Bingham Avenue
Rumson, NJ 07760

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NGUYEN, QUYNH H	
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jmaldjian@mfiplaw.com
PATENT@MFIPLAW.COM

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER TAVERNESE JR.

Appeal 2009-011647
Application 09/745,305
Technology Center 2600

Before JOSEPH L. DIXON, THU A. DANG, and
JAMES R. HUGHES, *Administrative Patent Judges*.

PER CURIAM

DECISION ON APPEAL

Appellant appeals from the Examiner's rejection of claims 1 and 3-29. Claim 2 has been canceled. (App. Br. 2.) We have jurisdiction under 35 U.S.C. § 6(b).

We Affirm-In-Part.

Representative Claim

1. Apparatus for caller information retrieval comprising:

a customer service response system (CSRS) capable of responding to an incoming telephone call from a calling party by playing a message to said calling party;

a graphical user interface (GUI) electrically coupled to said CSRS and configured to receive and display information from said CSRS;

wherein said information received from said CSRS originates from said calling party;

wherein via a soft-key or graphical button, said GUI is configured to selectively initiate another message being sent from said CSRS to said calling party.

Rejection on Appeal

The Examiner rejects claims 1 and 3-29 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. US 6,687,241 B1 issued Feb. 3, 2004 ("Gross") and U.S. Patent No. 5,526,417 issued Jun 11, 1996 ("Dezonno").

ISSUE

Does the Examiner err in concluding that Gross and Dezonno collectively would have taught or suggested "a graphical user interface (GUI) electrically coupled to said CSRS and configured to receive and display information from said CSRS; wherein said information received from said CSRS originates from said calling party" as recited in claim 1 and commensurately recited in claims 15 and 28?

FINDINGS OF FACT

We adopt the Examiner's findings in the Answer and the Final Office Action as our own, except as to those findings that we expressly overturn or set aside in the Analysis that follows.

ANALYSIS

Claims 1, 3-26, and 28

With respect to representative claim 1, we agree with Appellant that neither Gross nor Dezonno would have taught or suggested a graphical user interface (GUI) displaying information provided by (originating from) a calling party. (App. Br. 15-17; Reply Br. 3-4.) In particular we agree with Appellant that Gross describes two distinct systems – the first directed to a PSTN (public switched telephone network), *not* disclosed as explicitly utilizing a GUI, and the second, a call-back service, utilizing a GUI to respond to requests made through a Web site/Web server. (App. Br. 15-17.) As explained by Appellant (*id.*), information provided to the PSTN system does not originate from a caller, but rather the telephone company transmitting the call and information provided to the call-back service is provided by a user through accessing the Web server (through the Internet). It follows that in any case the information does not originate from the calling party as required by the claim.

Consequently, we are constrained by the record before us to conclude that Gross and Dezonno would not have taught or suggested the recited features of Appellant's claim 1, and the rejection of claim 1 fails to establish a prima facie case of obviousness. Appellant's independent claims 16 and 28 include a commensurate limitation. Appellant's dependent claims 3-15

(dependent on claim 1) and 17-26 (dependent on claim 16) stand with their respective base claims. Accordingly, we reverse the Examiner's obviousness rejection of claims 1, 3-26, and 28.

Claims 27 and 29

With respect to claim 27, this independent claim does not include the disputed limitation discussed *supra*. Rather, the claim recites "call system response (CSR) means for receiving information from a plurality of telephone calls" and "graphical user interface (GUI) means coupled to said CSR means for displaying said information from said plurality of telephone calls." (Claim 27.) Here, the information received and displayed by the GUI need only be included in the telephone call. There is no requirement that the information (data) originate from the caller. In view of this broad but reasonable interpretation, we find that Gross would have at least suggested such a GUI. (*See* col. 11, ll. 48-52 ("The Contact Server . . . routes the data that the Center Contact Server received from the VRU (at step **328**) to the selected agent's workstation, which now has all the information necessary to process the request") and Fig. 7). We also adopt and agree with the Examiner's reasoning concerning playing a message in response to a telephone call. (Ans. 5-8.)

We find Appellant's contrary arguments unpersuasive of error in the Examiner's obviousness rejection of claim 27 because Appellant's arguments, made with respect to claim 1, are not commensurate with the scope of claim 27, as explained *supra*. Appellant also does not persuade us of error in the Examiner's obviousness rejection of dependent claim 29 for the reasons set forth by the Examiner with respect to claim 1. Accordingly, we affirm the Examiner's obviousness rejection of claims 27 and 29.

CONCLUSIONS OF LAW

Appellant has shown that the Examiner erred in rejecting claims 1, 3-26, and 28 under 35 U.S.C. § 103(a).

Appellant has not shown that the Examiner erred in rejecting claims 27 and 29 under 35 U.S.C. § 103(a).

DECISION

We affirm the Examiner's rejections of claims 27 and 29 under 35 U.S.C. § 103(a).

We reverse the Examiner's rejections of claims 1, 3-26, and 28 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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